

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SINGULAR COMPUTING LLC,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

C.A. No. 1:19-cv-12551-FDS

Hon. F. Dennis Saylor IV

**DEFENDANT GOOGLE LLC'S
NOTICE REGARDING DEPOSITION DESIGNATIONS FOR ASTRO TELLER**

Google submits this notice to update the Court on the parties' disputes over the deposition designations for Astro Teller that are expected to be played on Thursday, January 11, 2024. In addition to violating the Court's prior motion in limine rulings, Singular's Teller designations at 149:18-150:4, 150:08-150:10, 150:24-151:04, and 151:18-152:1 also violate 35 U.S.C. § 298. Section 298 specifically forbids Singular from using a purported failure to obtain advice of counsel (e.g., regarding non-infringement or invalidity) as evidence of willful infringement: "The failure of an infringer to obtain the advice of counsel with respect to any allegedly infringed patent, or the failure of the infringer to present such advice to the court or jury, may not be used to prove that the accused infringer willfully infringed the patent or that the infringer intended to induce infringement of the patent." 35 U.S.C. § 298.¹

¹ Section 298 applies to all suits commenced on or after January 14, 2013, the effective date of the America Invents Act. Pub. L. No. 112-274, 126 Stat. 2456 (2013) at § 1(a) ("Notwithstanding section 35 of the Leahy-Smith America Invents Act (35 U.S.C. 1 note), section 298 of title 35, United States Code, shall apply to any civil action commenced on or after the date of the enactment of this Act.").

Dated: January 9, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that this document is being filed through the Court's electronic filing system, which serves counsel for other parties who are registered participants as identified on the Notice of Electronic Filing (NEF). Any counsel for other parties who are not registered participants are being served by first class mail on the date of electronic filing.

/s/ Nathan R. Speed

Nathan R. Speed